

## Article 24.

### Review and Enforcement of Orders.

#### **§ 105-345. Right of appeal; filing of exceptions.**

(a) No party to a proceeding before the Property Tax Commission may appeal from any final order or decision of the Commission unless within 30 days after the entry of such final order or decision the party aggrieved by such decision or order shall file with the Commission notice of appeal and exceptions which shall set forth specifically the ground or grounds on which the aggrieved party considers said decision or order to be unlawful, unjust, unreasonable or unwarranted, and including errors alleged to have been committed by the Commission.

(b) Any party may appeal from all or any portion of any final order or decision of the Commission in the manner herein provided. Copy of the notice of appeal shall be mailed by the appealing party at the time of filing with the Commission, to each party to the proceeding to the addresses as they appear in the files of the Commission in the proceeding. The failure of any party, other than the Commission, to be served with or to receive a copy of the notice of appeal shall not affect the validity or regularity of the appeal.

(c) The Commission may on motion of any party to the proceeding or on its own motion set the exceptions to the final order upon which such appeal is based for further hearing before the Commission.

(d) The appeal shall lie to the Court of Appeals as provided in G.S. 7A-29. The procedure for the appeal shall be as provided by the rules of appellate procedure.

(e) The Court of Appeals shall hear and determine all matters arising on such appeal, as in this Article provided, and may in the exercise of its discretion assign the hearing of said appeal to any panel of the Court of Appeals. (1979, c. 584, s. 3; 1983, c. 565.)

#### **§ 105-345.1. No evidence admitted on appeal; remission for further evidence.**

No evidence shall be received at the hearing on appeal to the Court of Appeals but if any party shall satisfy the court that evidence has been discovered since the hearing before the Property Tax Commission that could not have been obtained for use at that hearing by the exercise of reasonable diligence, and will materially affect the merits of the case, the court may, in its discretion, remand the record and proceedings to the Commission with directions to take such subsequently discovered evidence, and after consideration thereof, to make such order as the Commission may deem proper, from which order an appeal shall lie as in the case of any other final order from which an appeal may be taken as provided in G.S. 105-345. (1979, c. 584, s. 3.)

#### **§ 105-345.2. Record on appeal; extent of review.**

(a) On appeal the court shall review the record and the exceptions and assignments of error in accordance with the rules of appellate procedure, and any alleged irregularities in procedures before the Property Tax Commission, not shown in the record, shall be considered under the rules of appellate procedure.

(b) So far as necessary to the decision and where presented, the court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning and applicability of the terms of any Commission action. The court may affirm or reverse the decision of the Commission, declare the same null and void, or remand the case for further

proceedings; or it may reverse or modify the decision if the substantial rights of the appellants have been prejudiced because the Commission's findings, inferences, conclusions or decisions are:

- (1) In violation of constitutional provisions; or
- (2) In excess of statutory authority or jurisdiction of the Commission; or
- (3) Made upon unlawful proceedings; or
- (4) Affected by other errors of law; or
- (5) Unsupported by competent, material and substantial evidence in view of the entire record as submitted; or
- (6) Arbitrary or capricious.

(c) In making the foregoing determinations, the court shall review the whole record or such portions thereof as may be cited by any party and due account shall be taken of the rule of prejudicial error. The appellant shall not be permitted to rely upon any grounds for relief on appeal which were not set forth specifically in his notice of appeal filed with the Commission. (1979, c. 584, s. 3.)

#### **§ 105-345.3. Relief pending review on appeal.**

Pending judicial review, the Property Tax Commission is authorized, where it finds that justice so requires, to postpone the effective date of any action taken by it. Upon such conditions as may be required and to the extent necessary to prevent irreparable injury, a judge of the Court of Appeals is authorized to issue all necessary and appropriate process to postpone the effective date of any action by the Commission or take such action as may be necessary to preserve status or rights of any of the parties pending conclusion of the proceedings on appeal. The court may require the applicant for such stay to post adequate bond as required by the court. (1979, c. 584, s. 3.)

#### **§ 105-345.4. Appeal to Supreme Court.**

In all appeals heard in the Court of Appeals, any party may file a motion for review in the Supreme Court of the decision of the Court of Appeals under G.S. 7A-31, and in cases entitled to be appealed as a matter of right under G.S. 7A-30(3) any party may appeal to the Supreme Court from the decision of the Court of Appeals under the same rules and regulations as are prescribed by law for appeals, and such court may advance the cause on its docket. (1979, c. 584, s. 3.)

#### **§ 105-345.5. Judgment on appeal enforced by mandamus.**

In all cases in which, upon appeal, an order or decision of the Property Tax Commission is affirmed, in whole or in part, the appellate court may include in its decree a mandamus to the appropriate party to put said order in force, or so much thereof as shall be affirmed, or the appellate court may make such other order as it deems appropriate. (1979, c. 584, s. 3.)

#### **§ 105-346. Peremptory mandamus to enforce order when no appeal.**

(a) If no appeal is taken from an order or decision of the Property Tax Commission within the time prescribed by law and the person to which the order or decision is directed fails to put the same in operation, as therein required, the Commission may apply to the judge regularly assigned to the superior court district which includes Wake County, or to the resident judge of said district at chambers upon 10 days' notice, for a peremptory

mandamus upon said person for the putting in force of said order or decision; and if said judge shall find that the order of said Commission was valid and within the scope of its powers, he shall issue such peremptory mandamus.

(b) An appeal shall lie to the Court of Appeals in behalf of the Commission, or the defendant, from the refusal or the granting of such peremptory mandamus. The remedy prescribed in this section for enforcement of orders of the Commission is in addition to other remedies prescribed by law. (1979, c. 584, s. 3.)